# Calendar No. 2444

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2420

## ARMED FORCES REGULAR OFFICER AUGMENTATION ACT OF 1956

JULY 6, 1956.—Ordered to be printed

Mr. RUSSELL, from the Committee on Armed Services, submitted the following

## REPORT

[To accompany H. R. 11683]

The Committee on Armed Services, to whom was referred the bill (H. R. 11683) to authorize permanent appointments in the Armed Forces of the United States, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

### Amendments To the Bill

On page 6, line 12, after the word "law," insert "except service credited under section 103 (A) (1) and (2) of this title,".

On page 6, line 14, strike the words "sections 509 and 514" and insert "section 514"

On page 13, line 8, strike "December 7," and insert "December 6,"

### Explanation of Amendments

The committee amended the bill by adding to section 105 language which would exclude for mandatory retirement purposes the additional promotion-list credits of 3 years for Veterinary, Judge Advocate General, and Medical Service officers and chaplains contained elsewhere in the bill.

The other committee amendment was for the purpose of crediting commissioned service from December 7, 1941, rather than December 8, 1941. The amendment makes the bill conform to the dates contained in past augmentation legislation.

## Purpose of Legislation—To Increase the Number of Regular Officers Authorized for the Army and Air Force

The purpose of this bill is (1) to raise the statutory ceilings for Regular officers in the Army and Air Force to a figure that will permit about one-half of the officers on active duty in these services to be Regular officers, and (2) to provide for making the additional appointments to the Regular lists.

The statutory ceiling for Regular Army officers is increased from 30,600 to 49,500, which represents an increase from 26 percent to 50 percent of the planned active-duty officer requirement of 99,000. The Regular ceiling for the Air Force is raised from 27,500 to 69,425, which represents an increase from 17 percent to 50 percent of the planned active-duty officer requirement of 139,000.

The appointive authority of the bill authorizes for the Army new appointments in all Regular grades and for the Air Force through the grade of lieutenant colonel. Existing law (which is repealed by this bill) authorizes Regular appointments only through the grade of first lieutenant in the Army and the Air Force.

It should be noted that the Department of the Army assured the committee that at no time in the future would any permanent appointments be made above the grade of colonel. The committee did not amend the bill in this regard after receiving this assurance. The bill limits the authority for permanent appointments in the Air Force to the grades of lieutenant colonel and below.

*No increase in Regular officers for Navy and Marine Corps*

This legislation relates to Regular Navy and Marine Corps authorizations in only one respect; it makes permanent the temporary authority otherwise expiring on August 9, 1957, which permits the appointment of Regular officers in the Navy not above the grade of lieutenant, in the Marine Corps not above the grade of captain.

The Department of Defense has stated that existing statutory ceilings for Regular Navy and Marine Corps officers are adequate. For the Navy, the presently authorized Regular officer strength is 58,301, which is in excess of 50 percent of the required active-duty officer strength of 67,250. In the Navy, 45 percent (30,390) of the officers now on active duty are Regular officers.

The present administrative ceiling on Regular officer strength for the Marine Corps is 8,550, even though the statutory authorization for Regular Marine Corps officer strength is 28,000. There are presently 8,536 Regular officers in the Marine Corps, which represents 50 percent of the planned active-duty officer strength of 17,104.

## Significance of Legislation in Terms of Army and Air Force Officer Structure

This bill will establish for the foreseeable future the pattern for the composition of active-duty officer requirement for the Army and Air Force. The following assumptions based on information received from the Department of Defense constitute part of the basis for this legislation.

*I. That the number of officers required for the active Army and Air Force will remain for the foreseeable future at approximately their present levels.*

The Department of Defense has indicated that the total active duty strength of the Armed Forces is expected to remain at the approximate level of 2,850,000 and that an active-duty officer corps of approximately 322,200 is

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required for this force level. Within this overall level the planned strength for the Army is 1,030,000 men and for the Air Force 975,000. For these forces the Army will require about 103,000 officers on active duty, and the Air Force about 139,000. The Department of Defense states that the plans to augment the Regular officer strengths have been related to the above force level.

*II. That about 50 percent of the officers on active duty of the Army and Air Force will hold Regular commissions and thereby have the benefit of the 30-year career pattern established for permanent officers.*

Presently in the Army only 26 percent of the officers on active duty hold a Regular commission, in the Air Force only 17 percent. The non-Regular officers serve on a year-to-year basis without security status or permanency of tenure. Under the authority of this bill the Army and Air Force plan to increase on a gradual basis to about 50 percent the number of the active duty officers who would enjoy the security of a permanent commission.

*Significance of a Regular commission*

The statutory nature of a Regular commission is significant. After an officer has been placed on the Regular list, existing law provides no means for removing that officer except for cause, promotion passover, or retirement. Since most officers would be retired only after 30 years of service, the permanent commission provides a 30-year career pattern for the typical Regular officer. Those who would fail to complete the 30-year pattern would be the officers eliminated for cause or promotion passover. Those who remain beyond the 30-year period would for the most part be those who were selected for general officer rank. It is the position of the Department of Defense, therefore, that under existing law a Regular commission provides tenure of security subject to the above contingencies.

*III. That Reserve officers will constitute the remaining portion of the active-duty officer requirement for the Army and the Air Force.*

This legislation does not directly affect those Reserve officers who would constitute the remainder of the active-duty requirement after the Regular components had reached the level authorized by this bill. They will be without, therefore, the career security enjoyed by the Regular officers. Reserve officers have no legal right for remaining on active duty. They can, therefore, be relieved from active service at the discretion of the military departments and are also subject among other things to decreases in available funds or reductions in manpower ceilings.

The Army and the Air Force advised the committee, however, of a 20-year career pattern which has been developed for qualified Reserve officers who desire to remain on active service, subject of course to the Army and Air Force remaining at the planned force levels which the Department of Defense has announced in connection with this bill. As a matter of policy, therefore, the Army and Air Force are attempting to provide within budgetary limitations a career plan which will offer some degree of security for those Reserve officers who will be necessary to constitute the active-duty requirement not fulfilled by Regular officers.

## Objective: Greater Stability for Officer Corps

The basic objective of this bill is to establish greater stability in the officer corps of the Army and Air Force by offering the security of a Regular commission to a greater proportion of the career active-duty officers.

In achieving its objective the bill should also accomplish the following results:

(1) *Reduce the turnover of experienced Reserve officers*

For fiscal year 1955 there were approximately 11,000 experienced Reserve officers in the Army and the Air Force (Army 7,300, Air Force 3,000) in the grade of Captain and above who requested voluntary release from active service. These officers had served on active duty for periods ranging from 5 to 18 years and in many cases constituted an invaluable manpower resource of the Armed Forces. It is hoped that the security of a Regular commission, which this legislation makes possible, will reverse this trend of losses among experienced officers and induce a greater number now remaining on active duty to accept permanent commissions.

(2) *Induce a greater number of young Reserve officers on active duty to apply for a Regular commission*

In the Army and in the Air Force, under existing law, Regular commissions can be offered to only approximately 1,200 Lieutenants annually, 350 of which are Academy graduates. Due to the increased statutory ceilings of this bill, the Air Force initially will be in a position to extend Regular commissions to about 10,000 of these young officers who have acquired indispensable experience, mainly as combat-type officers. After the completion of the initial phase of this program about 2,500 annually may thereafter be offered Regular commissions in the junior officer grades.

In the Army about 2,000 Regular commissions will be offered to young, experienced Reserve officers in the grade of lieutenant. In addition, the Army, upon enactment of this bill, will increase its annual procurement of young Regular officers in the grade of lieutenant from about 1,350 to 1,950.

It is hoped that the expanded Regular programs of the Army and the Air Force will reduce the high turnover rate of these junior officers, as evidenced by the loss of 22,500 lieutenants during the last fiscal year from both services.

(3) *Eventually eliminate the Regular hump of the Army and Air Force*

A "hump" refers to an excess number of officers in particular years of promotion-list service than would be normal under the usual Regular career pattern. A hump exists in the Regular structure in the 13th- and 14th-year groups in the Army, and in the Air Force from the 11th- through 15th-year groups. The humps were created because in the Army and Air Force immediately after World War II a large number of experienced officers of like age and service were appointed as Regulars at about the same time. These humps have remained essentially unchanged for the last 10 years.

Unless adjustments are made among officers in the hump year groups unduly large numbers of officers of the same experience and age will be retired at about the same time. Moreover, unduly severe promotion problems would also occur among these groups. The humps of the Army and the Air Force should be immediately reduced and eventually eliminated as a result of the increased Regular ceilings of the bill, and the authority to use constructive service for the purpose of adjusting promotion-list credit.

(4) *Provide a larger "hard corps" of the Army and the Air Force career officers*

By authorizing a larger career force, both the Army and the Air Force will obviously possess a larger group of career officers from which to select and develop future military leadership. At the same time an increased Regular force will enable these services to be in a better position to meet their worldwide commitments and to achieve a greater degree of combat readiness.

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## Augmentation Schedule

The bill contains no provision establishing the rate at which the Army and the Air Force will increase the size of their Regular components under the authority of this bill.

Both the Army and the Air Force, however, have furnished a schedule for implementing this legislation. In both the Army and the Air Force the period of about 18 months following the enactment of the legislation will be used for selecting and processing applications for regular appointments. By July 1, 1958, the Department of the Army plans to appoint an additional 7,000 officers and by July 1, 1963, an additional 4,000, at which time the Regular Army list would contain about 39,600 officers.

The Department of the Air Force plans by January 1, 1958, to appoint an additional 25,000 Regular officers and thereafter by January 1, 1963, about an additional 6,000, making the total Regular officer strength 55,540. The bill provides that the Secretary of Defense will submit to the President annually for his approval, the planned Regular officer strength in each service for the ensuing five years. Presidential approval has already been granted for an augmentation plan through 1963. Increases beyond the 1963 levels will require further Presidential approval. Following is a table indicating the expected Regular officer strength at the times indicated, together with the percentages which those strengths will constitute of the planned active-duty officer strength. The total authorizations would require further Presidential approval.

*Summary table, Regular officer augmentation (end of fiscal year)*

| | 1956 | 1958 | 1963 | Total authorization 1970 |
|---|---|---|---|---|
| Army—Regular officers | 26, 320 | 35, 640 | 39, 600 | 49, 500 |
| Percent of total officers | 25. 6 | 36 | 40 | 50 |
| Air Force—Regular officers | 24, 118 | 49, 986 | 55, 540 | 69, 425 |
| Percent of total officers | 17 | 36 | 40 | 50 |

## Number of Officers by Grade To Be Integrated

The bill contains no provision which prescribes by grade the number of persons who will receive Regular appointments. The following table indicates, however, the plans of the Army and the Air Force with respect to the numbers by grade of officers who would be integrated in 1958 in the Army and the Air Force. Subsequent to that time most of the additional Regular commissions would be awarded only to officers in the grade of lieutenant.

*Numbers to be commissioned in each grade (estimated maximums)*

ARMY (BY JULY 1, 1958)

| Grade | Total |
|---|---|
| Colonel | 20 |
| Lieutenant colonel | 800 |
| Major | 1, 400 |
| Captain | 2, 700 |
| 1st lieutenant | 1, 630 |
| 2d lieutenant | 450 |
| Total | 7, 000 |

AIR FORCE (BY JAN. 1, 1958)

| Grade | Total | Rated | Nonrated |
|---|---|---|---|
| Colonel | 0 | 0 | 0 |
| Lieutenant colonel | 0 | 0 | 0 |
| Major | 2, 613 | 1, 881 | 732 |
| Captain | 12, 790 | 9, 209 | 3, 581 |
| 1st lieutenant | 7, 206 | 5, 188 | 2, 018 |
| 2d lieutenant | 3, 160 | 2, 275 | 885 |
| Total | 25, 769 | 18, 553 | 7, 216 |

## Resources for Augmentation

With minor exceptions all new appointments in the Regular Army and Air Force under this legislation will be made from among Reserve officers now on active duty in the Army and in the Air Force. The Army estimates that for the 7,000 Regular vacancies to be filled by July 1, 1958, there are 40,000 eligible Reserve officers now on active duty. The Air Force estimates that for the 25,000 vacancies to be filled in January 1958 there are presently 75,000 Air Force Reserve officers on active duty who would be eligible.

*Department of Defense survey*

In an attempt to determine the career intention of Reserve officers serving voluntarily on active duty with the Army and the Air Force, the Department of Defense recently conducted a survey which indicated that 89 percent of the Army officers and 73 percent of the Air Force officers indicated intentions of remaining in service for a full military career. Three out of four of these officers expressed their desire for a Regular commission. The express desire of Reserve officers toward a full military career is dependent upon their opportunity for obtaining a Regular commission.

## Augmentation Procedure

Any regular augmentation involves essentially two questions.

(1) Whether the promotion-list service of those officers *already* on the Regular list will be increased or otherwise adjusted, and

(2) The manner of placing the newly appointed Regular officers on the Regular list in terms of promotion-list service, which is the basis for promotion and in most cases for retirement eligibility.

The way in which the bill treats these two questions is analyzed below, following certain background information.

## Background

*Normal Regular appointment and promotion pattern*

*The number of years of promotion-list service* is the basis for determining both the grade in which a person will receive Regular appointment and also his eligibility to be considered for promotion to the next higher Regular grade. The pattern which is contained in the Officer Personnel Act of 1947 establishes a 30-year career plan for most Regular officers. The following table indicates the points in years of promotion-list service at which officers must be promoted to the next higher permanent grade and the percentages of the total authorized strengths for the various grades under the 1947 Act.

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| Years of promotion-list service | Grade to— | Percentage authorized |
|---|---|---|
| After 3 | First lieutenant | 36 |
| After 7 | Captain | 23 |
| After 14 | Major | 19 |
| After 21 | Lieutenant colonel | 14 |
| After 28 | Colonel | 8 |

The exceptions to this 30-year pattern would be those officers who would be eliminated for cause or for promotion passover prior to completing 30 years of service. An officer completing 30 years service would normally be in the grade of permanent colonel.

It should be emphasized that existing law provides that Regular officers will be mandatorily considered for permanent promotion through the grade of lieutenant colonel and that the percentage limitations may be exceeded for such purpose. The percentage limitation on the number of colonels cannot be exceeded.

*Present permanent promotion pattern*

In both the Army and the Air Force at the present time permanent promotions up to and including the grade of major are being made only after the mandatory periods prescribed in the Officer Personnel Act. In the Army with respect to the grades of permanent lieutenant colonel and colonel the Army is now making promotions to the former grade after 18 years of service and to the latter after 23. Within two years permanent promotions to the grades of lieutenant colonel and colonel will be only after 21 and 25 years respectively. In the Air Force promotions to the grades of lieutenant colonel and colonel for this year only are being made from among officers with 16 years of service. Within 5 years, however, promotions to these two grades in the Air Force will occur at 21 years and 25 years respectively.

With respect to the standards for promotion, the Officer Personnel Act provides that permanent promotions through the grade of lieutenant colonel may be made either on a "fully qualified" or a "best qualified" basis. Both the Army and the Air Force have used the "fully qualified" criteria, which is a less severe standard than "best qualified." Promotions to the permanent grade of colonel must as a matter of law be on the "best qualified" basis.

## Promotion List Increases for Regular Officers

*Army—no adjustments*

This legislation contains no authority whereby the Department of the Army may increase the promotion-list service of its existing Regular officers. Such authority was not requested for two reasons. First, no additional credits are required for the purpose of reducing the Army hump or for accelerating Regular promotions. Second, any adjustment from the standpoint of equity would be extremely difficult. For example, since 1932 the Army has integrated officers under varying programs which has denied them full credit for their prior commissioned service for promotion-list purposes. On the other hand, the Army in 1946 integrated officers and awarded them up to 20 years' constructive credit for promotion-list purposes, with the result that years never actually served were awarded for promotion-list and mandatory retirement purposes.

*Air Force—additional promotion list credit for existing Regulars*

The bill provides that Air Force officers who were Regulars on the date of enactment of the bill may be awarded additional promotion-list service as indicated below.

*Commissioned service subsequent to December 7, 1941*

1. The promotion-list service of all Air Force Regular officers who were permanently commissioned since January 1, 1948, would be increased by the amount of active commissioned service they have performed after December 7, 1941, and for which they have not already received promotion-list credit. The Officer Personnel Act of 1947 authorized in recognition for active commissioned service performed after December 31, 1947, a maximum of five years' promotion-list credit. The bill therefore would authorize promotion-list credit for the additional commissioned service performed after December 7, 1941. There are approximately 2,500 Regular Air Force officers who would be affected.

*Two years of constructive service*

2. The bill authorizes the Secretary of the Air Force to increase up to two years the promotion-list service for existing Regular officers. This constructive service would also be crediatble for mandatory retirement purposes. The Air Force has advised the Committee that this authority would be used only to increase the service of certain Regular officers now in the World War II Regular hump. The number of officers who would receive increased service would be about 11,000, of which 6,500 would be given an additional one year and 4,500 an additional two years.

*Credit for certain specialists*

3. The bill authorizes an additional three years of promotion service credit for a small group of about 200 Regular officers. These are existing Regular judge advocates, veterinary officers, or chaplains, appointed during the 1946 integration, the authority for which provided no promotion-list service in recognition for the professional education of these specialists.

*Promotion because of additional service credit*

The bill provides that Air Force officers who become eligible for mandatory promotion consideration as a result of the additional constructive service credit will be considered for promotion by the next regular promotion board for the particular grade. Also, the bill provides that officers who become eligible for mandatory promotion consideration as a result of the additional active commissioned service, or constructive service in the case of the specialists integrated in 1946, shall be considered for promotion to the next higher grade by a special board.

## Elements and Basis for New Appointments

### A. Age

*Army—base age of 27 to be increased by certain credits*

The bill provides that the base age for appointment in the Regular Army will be 27, which may be increased by certain service as follows:

1. The age of 27 will be increased by the years of active commissioned service performed by the officer after December 6, 1941. *In addition* to the active commissioned service, if applicable, the base age may also be increased by one of the following periods:

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(a) A period not to exceed 8 years equal to the active duty commissioned service already creditable to the officer for pay purposes.

(b) A period not to exceed 2 years of constructive service which would be awarded in the discretion of the Secretary of the Army. This period would be creditable for promotion-list and mandatory retirement purposes.

(c) Up to 8 years of constructive service (the period by which his age exceeds 27) for a small group of appointees, which cannot exceed 200, and who must be appointed within 2 years after the effective date of the Act. These would be outstanding civilian specialists who possess skills required by the Army.

The bill provides an older base age for certain specialists as follows: Chaplain, 34; veterinary and Judge Advocate appointees, 32; medical service corps appointees, 33. The ages for the appointees in these specialties may also be increased in the same manner prescribed for those with the base age of 27.

*Example*

An example of an officer receiving the additional promotion-list service might be as follows: An officer whose present age is 38 might have completed 9 years of active commissioned service. Since he would still lack 2 years of being qualified (since the base age plus years of commissioned service equals only 36) the Secretary could award the officer an additional 2 years of constructive service in order for him to be eligible on age. The officer would then have 11 years of promotion-list credit and if appointed would be placed on the Regular Army list in the grade of Captain with appropriate seniority.

*Air Force—base age of 30, increased by amount of active commissioned service—authority for waiver*

The bill provides that the base age for appointment in the Regular Air Force will be age 30. The base age may be increased by the period of active commissioned service already performed by the appointee. Moreover, the Secretary is authorized to waive the age limitation for an officer with unique qualifications where he can nevertheless complete 20 years of active commissioned service prior to reaching age 55.

*Examples*

An example of an Air Force officer well within the age limitation would be as follows: A Reserve officer now on active duty whose age is 40 and who has completed 12 years of active commissioned service, (since the base age of 30 plus his commissioned service equals 42).

An example of where a waiver on age would be necessary would be the case of an officer now aged 46 who had completed 15 years of commissioned service. Since the base age of 30 plus his 15 years of active duty amounts to only 45, he would not be within the age limitation unless the Secretary made a waiver in his case. It is expected that waivers will be authorized only for officers with unique qualifications.

*Completion of twenty years of active service before reaching age 55*

The bill provides that no Regular appointments can be made in either the Army or Air Force to persons who cannot complete 20 years of active commissioned service prior to reaching age 55. The bill does not require that any particular period of active service be completed subsequent to appointment.

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The 20-year requirement relates only to total commissioned service both before and after the officer's Regular appointment.

## B. Promotion List Service Creditable on Appointment

After an officer has been determined eligible on age and thereafter appointed based on additional qualifications, the initial problem is to determine the amount of creditable promotion-list service which in turn will be the basis for his permanent grade and seniority within his grade. The following is a discussion of the manner in which the promotion-list service creditable on appointment will be determined for new Regular appointees in the Army and Air Force.

*Army*

The bill provides with respect to the Army that the same additional service creditable for determining age will be used for determining promotion-list service with the one exception that certain specialists may be granted 3 years of constructive service for promotion-list purposes.

In the Army the following periods will be used in determining the amount of promotion-list service creditable to an officer upon appointment.

*Prior commissioned service*

All commissioned service performed after December 6, 1941, will be creditable. In addition, one of the following periods, if applicable, will be creditable:

*8 years already creditable for pay purposes*

(a) A period not to exceed 8 years equal to the commissioned service already creditable to the officer for pay purposes.

*2 years of constructive service*

(b) A period not to exceed 2 years of constructive service which would be awarded in the discretion of the Secretary of the Army. This period would be creditable for promotion-list and mandatory retirement purposes.

*8 years of constructive service*

(c) Up to 8 years of constructive service (the period by which his age exceeds 27) for a small group of appointees, which cannot exceed 200, and who must be appointed within 2 years after the effective date of the act.

*3 years of constructive service for certain specialists*

(d) Three years of promotion-list service may be awarded to appointees in the following specialties: Veterinarian, Judge Advocate General, and Medical Service Corps officers and chaplains.

*Air Force*

The bill provides that the following periods may be utilized in determining the promotion-list credit for Regular appointees.

*Prior active commissioned service*

All active commissioned service performed after appointment and after becoming 21 years of age will be creditable. In addition to the credit for prior active commissioned service the following services are authorized:

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*2 years of constructive service*

(a) Two years of constructive service for officers appointed to Regular commissions while serving on active duty in the Air Force. There will be about 1,300 officers who will receive additional service under this provision, of which 300 will receive two years and about 1,000 one year. Persons who will receive such service will be the most senior of those appointed under the integration program. Such service is authorized in order that officers appointed in these grades will have the same service as the existing Regular officers who were given the additional service in order to reduce the Air Force World War II hump.

*8 years of constructive service*

(b) Eight years of constructive service (also creditable for mandatory retirement purposes), which may be awarded to civilians or nonactive duty reservists who possess critical specialties needed by the Air Force and who may be appointed, but not to exceed 100 annually.

*3 years of constructive service for certain specialists*

(c) Three years of promotion-list service for the persons designated as follows: Veterinarian, chaplain, Judge Advocate, Medical Service officer.

## C. Promotion-List Service Required for Appointment to the Various Grades

*Army—Integration immediately below existing Regulars with same service*

With respect to the Army the bill does not prescribe infinite numbers the years of promotion-list service required for appointment in the various grades. The bill only requires that the person appointed be placed immediately below the Regular officer already on the list with the same amount of promotion-list service. Under existing criteria persons who are credited with 3, 7, and 14 years of promotion-list service will be appointed in the grades of first lieutenant, captain, and major, respectively, since these are the amounts of promotion-list service required for promotion to these grades for officers now on the Regular list. For the grades of lieutenant colonel and colonel 18 years and 23 years of promotion-list service respectively is required for promotion to these grades for those now on the Regular list. This is the amount of service, therefore, which will be required for newly appointed Regulars to receive these grades.

*Air Force—prescribed periods*

The bill contains a provision which generally conforms to the present permanent promotion pattern under the Officer Personnel Act and which requires prescribed periods for various grades. The amounts of service for the grades indicated are listed as follows:

| | |
|---|---|
| Second lieutenant | less than 3. |
| First lieutenant | 3 to 7. |
| Captain | 7 to 14. |
| Major | 14 to 21. |
| Lieutenant colonel | at least 21. |

## Other Features of the Bill

**Authorization and limitation for general officer grades**

This bill restates, with an important exception, the provisions of existing law regarding the number of authorized permanent general officers. Existing

authority provides that the authorized number of permanent general officers in the Army and Air Force will be three-fourths of one percent of the authorized Regular strength, with the finite limit of 201 in the Army and 156 in the Air Force.

With respect to the number of permanent general officers in the Army, the bill restates the formula of existing law but provides no finite limitation. Due to the increased authorization of Regular Army strength the authorized number of permanent general officers will increase from 201 to 339.

With regard to the Air Force, due to the increased Regular strength, the authorized number of permanent general officers without some limitation would be 491 instead of 156. The bill limits the authorized number of permanent general officers by providing that the number of permanent general officers may not exceed the ceiling imposed by the Officer Grade Limitation Act on the number of officers on active duty who may serve in general officer grades. The ceiling imposed by the Officer Grade Limitation Act on the number of general officers who may serve on active duty in the Air Force is 449. The number of general officers on active duty for which the Senate Committee on Armed Services has agreed to recommend confirmation is somewhat less than the Grade Limitation Act figure.

The Air Force advises the committee that at no time in the future would the Air Force exceed the number of permanent general officers authorized under the provisions of the Officer Grade Limitation Act for an active duty force of 70,000 officers. The number of general officers authorized by the Officer Grade Limitation Act for a total officer force of 70,000 would be 336.

As noted above, this bill is related expressly to the Officer Grade Limitation Act of 1954, only with respect to the permanent general officer grades. It should be emphasized, however, that this bill should not be construed as repealing by implication, or otherwise revising, the ceilings established by the Officer Grade Limitation Act for the number of field grade officers who may serve on active duty within the various force levels. The services should therefore be cognizant of the field grade officers authorized by the 1954 legislation where the total numbers of officers on active duty are lower than the present levels. It might also be noted that the legislation as introduced contained a provision which would increase whenever necessary the authorized numbers in the Officer Grade Limitation Act, for the purposes of making Regular promotions. The House Committee on Armed Services deleted this provision.

**No authority for certain specialists**

The bill expressly provides that this legislation does not constitute appointive authority in either the Army or Air Force for the appointment of medical or dental officers, nurses, or medical specialists. The various authorities for appointment for these persons is already contained in separate statutes.

**Provisions relative to academy graduates**

The bill relates to academy graduates in two respects, both of which are in effect restatements of existing law.

1. It is provided in both the Army and Air Force titles that the promotion seniority of an Academy graduate who has served continuously since graduation will be protected in that no academy graduate appointed to a Regular commission will be given greater promotion-list service than the classmate who has served continuously.

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2. Provisions in both the Army and Air Force title provide authority for the appointment to a Regular commission and the determination of relative rank of graduating classes by the appropriate service secretary. It is necessary to provide such authority since the existing appointive authority for Regular officers is repealed by this legislation.

**Cost of legislation**

The Department of Defense has advised the committee that the enactment of this legislation would not result in increased military personnel cost. The basic reason for the lack of an increase is the fact that the bill itself would not increase the number of officers now on active duty.

## Sectional Analysis

**Sec. 101. Authority and qualifications for appointment**

(a) This subsection contains the general authority authorizing the President, by and with the advice and consent of the Senate, to appoint commissioned officers in the Regular Army pursuant to the terms of Title I of the bill.

(*b*) *General eligibility requirements*

This subsection prescribes the general requirements for eligibility for appointment in the Regular Army under this Title. It provides that a person must be a United States citizen, twenty-one years of age, of good moral character, physically qualified for active service, and possess such other qualifications as the Secretary of the Army might prescribe.

**Sec. 102. Base ages for appointment—increased by certain credits**

(a) This subsection provides that no person will be appointed in the Regular Army who is past his 27th birthday, except those who are appointed as chaplains may not have passed their 34th birthday; those in the Veterinary Corps or Judge Advocates General Corps their 32d birthday; and those in the Medical Service Corps their 30th birthday. It further provides that the maximum ages may be increased by the additional service contained in section 103 which would credit certain active commissioned service and constructive service for promotion list purposes.

*Requirement for completing 20 years of active commissioned service prior to age 55*

(b) This subsection provides that no person will be appointed a regular officer under this title unless he would complete 20 years of active commissioned service before reaching 55 years of age.

It might be noted that the 20 years relates only to total commissioned service. No minimum period is required subsequent to appointment.

**Section 103. Service creditable for promotion list purposes**

(a) This subsection provides for certain service which may be added to the base age of the appointees for the purpose of determining their position on the promotion list, seniority, and eligibility for promotion.

*Active commissioned service after December 6, 1941*

This section provides that those appointed in the regular Army will be credited for promotion list purposes with their active commissioned service after December 6, 1941, which they performed after becoming 21 years of age and before their regular appointment. In addition it is also provided that one of the following periods, if applicable, may be creditable.

*Three years for certain specialists*

Three years of promotion list service will be credited to persons appointed in the Judge Advocate General's or Veterinary Corps, or Chaplain, and in the Medical Service Corps for persons holding certain degrees. The three-year credit which is awarded under existing law would be in recognition of post-graduate training in these specialties.

*Up to eight years for officers already receiving pay credit for such service*

This subsection would recognize for promotion list purposes a period up to eight years for commissioned officers on active duty who receive regular appointments who already have received such credit for pay purposes. This time could not exceed the difference between his age at time of appointment and age 27. For example, a 45-year-old Reserve officer on active duty has 14 years of active commissioned service and 7 years of inactive commissioned service. His total service for pay purposes therefore is 21 years. The difference between his appointment age of 45 and the age of 27 is 18 years. Since he has 14 years of active service he may be credited with 4 years of inactive service for pay purposes so that he may be appointed with 18 years of promotion-list service and be positioned with his age contemporaries in the Regular service.

*Up to eight years of constructive service for civilian specialists*

For a period within 2 years after the effective date of the Act, the Army could grant 8 years of constructive service for promotion-list purposes to not more than 200 outstanding specialists in critical fields as prescribed by the Secretary of the Army and approved by the President. Each person so appointed must meet the requirement of being able to complete 20 years of active commissioned service prior to attaining age 55. For example, a person with practical experience in a skill needed by the Army who is 34 years of age may be appointed and credited with 8 years of promotion-list service thus permitting his placement on the applicable promotion list among officers of like age and promotion-list service. Such an appointee, with no prior active service, can still complete 20 years of active-commissioned service prior to reaching age 55. The 8 years of "constructive" service granted this appointee will not be creditable to him in the computation of his basic pay. This service, however, would be creditable as a multiplier in the retired pay of such person who had been mandatorily retired.

*Two years of constructive service*

This subsection provides that the Secretary in his discretion may award up to two years of constructive service for promotion-list and mandatory requirement purposes. The service would be based on the extent not to exceed two years to which an officer's exceeded 27 at the time of appointment. For example, a 40-year-old officer serving on active duty has 11 years of active commissioned service. He requires 13 years of promotion-list service to equal the difference between the base age of 27 and his appointment age of 40. By adding 2 years of constructive service to his 11 years of active service he will be eligible for appointment. Persons in this category must be or must previously have been commissioned officers in order to qualify for a grant of constructive service. The granting of constructive service will enable the officer receiving it to be placed on the promotion-list in the same year group with his contemporaries of the same age. It should also be noted, however, that the granting of constructive service will accelerate the officer's consideration for promotion and his retirement by the amount of service credit he receives.

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**Section 103 (b). Protection of promotion seniority of academy graduates with continuous service**

The purpose of this subsection is to insure the promotion seniority of academy graduates with regard to classmates who may receive regular commissions under this title. The subsection further provides that no person who was a cadet at the United States Military Academy, United States Naval Academy, or United States Air Force Academy may be appointed in the Regular Army before the date on which his classmates are appointed as officers. In addition, if appointed in the Regular Army, such a person may not be credited with longer service than that credited to any member of his class whose service has been continuous since graduation.

This subsection is a restatement of existing law which is repealed by this legislation.

**Section 103 (c). Appointment authority for academy graduates**

This subsection in relating to the appointment of academy graduates in the Regular Army contains the following provisions: (1) A cadet at the United States Military Academy may upon graduation be appointed a 2d lieutenant in the Regular Army, but may not upon appointment be credited with any service under this title; (2) the authorized strength of the Regular Army may be temporarily increased in order to make appointments of graduates from the Military, Naval, or Air Force Academies; (3) the rank among graduates of each class at the United States Military Academy will be fixed under regulations prescribed by the Secretary of the Army. These provisions are, in effect, a restatement of existing law.

**Section 104. Promotion-list service required for appointment in the various grades**

This section establishes the procedure for determining the grade and position in which a new appointee will be placed on the Regular promotion list. It might be noted that this section does not prescribe in finite numbers the years of promotion service required for appointment in the various grades. The section only requires that the person appointed be placed immediately below the Regular officer already on the list with the same amount of promotion-list service. Under existing criteria persons who are credited with 3, 7, and 14 years of promotion-list service will be appointed in the grades of first lieutenant, captain, and major, respectively, since these are the amounts of promotion-list service required for promotion to these grades for officers now on the Regular list. For the grades of lieutenant colonel and colonel 18 years and 23 years of promotion-list service respectively are required for promotion to these grades for those now on the Regular list. This is the amount of service, therefore, which will be required for newly appointed Regulars to receive these grades.

**Section 105. Constructive service recognized for mandatory retirement purposes**

This section provides that except for the additional promotional list service of 3 years authorized for appointments in the Veterinary, Chaplain, Judge Advocates General, or Medical Service Corps, the service will be creditable under the provision of the Officer Personnel Act relating to mandatory retirement. Section 514 of the Officer Personnel Act of 1947 provides, in effect, that constructive service will be counted as actual service for the purpose of mandatory retirement. The constructive service would, therefore, be counted as actual service in determining the retired pay of an officer mandatorily eliminated.

**Section 106. Exclusion of specialists appointed under other statutes**

This section provides that this title does not apply to the appointment of officers of the Army Nurse Corps or the Army Medical Specialist Corps, or (except for determining the Regular Army active-list commissioned officer

strength) to the appointment of officers of the Medical Corps or the Dental Corps. The basic statutory authority for appointment of officers in these Corps is contained in separate legislation.

**Section 107. Savings clause**

This section provides that this title will not terminate the appointment of any officer of the Regular Army. This provision is desired since this legislation repeals the authority of the Officer Personnel Act under which many officers on the Regular list were appointed. This section will insure the validity of these prior appointments even though the authority for their original appointments has been repealed.

**Section 108. No suspension of normal Regular promotions**

This section provides that the promotion of an officer who has been selected to be promoted may not be withheld because of an appointment under title I. This provision is intended to insure that a Regular officer who has already been selected for permanent promotion and who is on a recommended list awaiting promotion will not have that promotion delayed because of the appointment of an officer who is senior to him in the grade he then holds. For example, a Reserve officer with 16 years and 11 months of promotion-list service is appointed as a permanent major just after an Army selection board has selected permanent majors for promotion to lieutenant colonels. The junior Regular officer selected by the board has 16 years and 10 months of promotion-list service. Without this provision the junior officer selected by the board would have his promotion delayed until his newly appointed senior has been considered by the next regularly convened promotion board.

**Section 109. Increase in statutory authorization**

This section amends the Army and Air Force Authorization Act of 1949 by increasing the authorized strength of the commissioned officer active list of the Regular Army from 30,600 to 49,500.

**Section 201. Authority and qualifications for appointment**

(a) This subsection, which is identical to section 101 (a) relating to the Army, contains the general authority which authorizes the President, by and with the advice and consent of the Senate, to appoint commissioned officers in the Regular Air Force pursuant to the terms of title II of the bill.

(*b*) *General eligibility requirements*

This subsection prescribes the general requirements for eligibility for appointment in the Regular Air Force under this title. It provides that a person must be a United States citizen, twenty-one years of age, of good moral character, physically qualified for active service, and possess such other qualifications as the Secretary of the Air Force might prescribe.

(*c*) *Establishment of Boards to recommend appointments*

This subsection requires that the Secretary of the Air Force convene Selection Boards to consider the persons who are eligible for appointment in the Regular Air Force under this legislation. Each Board must be composed of at least five officers of the Regular Air Force. Recommendations for appointment must be made by a majority of the total membership of the Board. It is further provided that the President may remove from the list of persons recommended by the Board any person who in his opinion is not qualified for a Regular appointment.

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(*d*) *Authority to appoint as Regular officers with eight years of constructive service not more than one hundred civilians annually*

This subsection provides that not more than one hundred persons in any calendar year may be appointed from civilians in the Reserves of the Air Force who are not on active duty and who have qualifications not otherwise available from members of the Air Force on active duty. The subsection further provides that persons appointed under this subsection may receive up to eight years of constructive service which as provided elsewhere in this title, is creditable for the purposes of promotion list service and mandatory retirement. In effect the constructive service authorized such persons is the equivalent of active military service for the purpose of the Regular promotion list and retired pay following mandatory retirement.

**Section 202. Maximum age for appointment**

This section provides that unless the Secretary of the Air Force makes an exception, the maximum age for appointment for persons having no prior active commissioned service will be age thirty. It is further provided, however, that the Secretary may waive the maximum age for exceptionally qualified persons who may nevertheless complete twenty years of active commissioned service before attaining age fifty-five. It is further provided that the maximum age limitation is increased by the period of active commissioned service performed after the person became twenty-one and before his appointment.

The Air Force desires the authority to waive the maximum age limitation in order to consider for integration a very small number of well qualified officers who have completed fairly long periods of commissioned service but whose ages nevertheless prevent them from being appointed as Regulars. As an example, a Reserve officer on active duty, forty-two years of age, who had completed only ten years of commissioned service would be ineligible under the age thirty criteria since thirty years of age plus his commissioned service of ten years would equal only forty rather than the forty-two required for appointment in his case.

It might be noted that the requirement that an officer cannot be above the age which would permit the completion of twenty years of active commissioned service prior to attaining age fifty-five relates to commissioned service performed before and after his appointment as a Regular.

**Section 203. Service creditable on appointment.**

(a) This subsection provides that at the time of appointment in the Regular Air Force an officer will be credited with the following periods for promotion-list and mandatory retirement purposes:

*Prior active commissioned service*

All active commissioned service performed after appointment and after becoming 21 years of age will be creditable. In addition to the credit for prior active commissioned service the following services are anthorized:

*2 years of constructive service*

Two years of constructive service for officers appointed to Regular commissions while serving on active duty in the Air Force. There will be about 1,300 officers who will receive additional service under this provision, of which 300 will receive two years and about 1,000 one year. Persons who will

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receive such service will be most senior of those appointed under the integration program. Such service is authorized in order that officers appointed in these grades will have the same service as the existing Regular officers who were given the additional service in order to reduce the Air Force World War II hump.

*8 years of constructive service*

Eight years of constructive service (also creditable for mandatory retirement purposes), which may be awarded to civilians or nonactive duty reservists, who possess critical specialties needed by the Air Force and who may be appointed, but not to exceed 100 annually.

*3 years of constructive service for certain specialists*

Three years of promotion-list service for the persons designated as follows: Veterinarian, chaplain, Judge Advocate, Medical Service officer.

(*d*) *Protection of promotion seniority of Academy graduates with continuous service*

The purpose of this subsection is to insure the promotion seniority of Academy graduates now on the Regular list with regard to classmates who may receive Regular appointments under this title. It provides for two things: (1) That no person who was a cadet at one of the Academies may be appointed with a date of rank prior to the date received by his classmates who were graduated and appointed as officers, and (2) that no person who was a cadet but did not graduate from an Academy may be credited with a longer period of promotion-list service at the time of his appointment than is credited to his former classmates now on the Regular list. This subsection is a restatement of existing law.

(*e*) *Appointment authority for Academy graduates*

This subsection authorizes the appointment as Regular Air Force officers of Military, Naval, and Air Force Academy graduates even though such appointments would be in excess of authorized strength. This section provides that the Secretary should prescribe relative rank among appointees from service Academies. It also provides that persons appointed upon graduation from service Academies shall not receive any promotion-list service credit under this Title. This subsection is a restatement of existing law which is repealed elsewhere in this Title.

**Section 204. Rank to be awarded based on promotion-list service**

This section sets forth the various ranks which Air Force Regular appointees will be given after their promotion-list service has been calculated.

(1) Second lieutenant, persons with less than 3 years of service.
(2) First lieutenant, persons with at least 3, but less than 7, years of service.
(3) Captain, persons with at least 7, but less than 14, years of service.
(4) Major, persons with at least 14, but less than 21, years of service.
(5) Lieutenant colonel, persons with at least 21 years of service.

It further provides that the name of each person appointed under this Title shall be placed on the applicable promotion list immediately below the junior officer of the same permanent grade having the same or next longer service for promotion purposes.

In addition to prescribing the required periods of promotion-list service, the intent of this section is to limit the authority for appointments in the Air Force to the grades of lieutenant colonel and below.

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**Section 205. Savings clause**

This section provides that this Title will not terminate the appointment of any officer of the Regular Air Force. This provision is desired since this legislation repeals the authority of the Officer Personnel Act under which many officers on the Regular list were appointed. This section will insure the validity of these prior appointments even though the authority for their original appointments has been repealed.

**Section 206. No suspension of normal Regular promotions**

This section provides that the promotion to a higher regular grade of any officer of the Regular Air Force, otherwise eligible for promotion, may not be withheld because of an appointment under this title. This proviso is intended to insure that a Regular officer who has already been selected for permanent promotion and who is on a recommended list awaiting promotion, will not have that promotion delayed because of the integration of an officer who is senior to him in the grade he then holds. For example, an officer who has six years and three months' promotion-list service credit and had been recommended for promotion to the permanent rank of captain, but who has not yet been promoted, may not have his promotion delayed due to a person being appointed in the Regular Air Force who is credited with six years and four months' promotion-list service credit and who was not considered by the same board.

**Section 207. Increased promotion-list service for existing Regular officers**

This section provides that Air Force officers who are Regulars on the date of enactment of this bill may be awarded additional promotion-list service as follows:

*Commissioned service subsequent to December 7, 1941*

(a) The promotion-list service of all Air Force Regular officers who were permanently commissioned since January 1, 1948, would be increased by the amount of active commissioned service they have performed after December 7, 1941, and for which they have not already received promotion-list credit. The Officer Personnel Act of 1947 authorized in recognition for active commissioned service performed subsequent to December 31, 1947, a maximum of five years' promotion credit. The bill therefore would authorize promotion list credit for the additional commissioned service performed after December 7, 1941. There are approximately 2,500 Regular Air Force officers who would be affected.

(*b*) *Years of promotion-list service for specialists integrated in 1945 and 1946*

The bill authorizes an additional three years of promotion service credit for a small group of about 200 Regular officers. These are existing Regular judge advocates, veterinary officers, or chaplains, appointed during the 1946 integration, the authority for which provided no promotion list service in recognition for the professional education of these specialists.

(*c*) *Promotion consideration as a result of increase in promotion-list service*

This subsection provides that Regular Air Force officers who become immediately eligible for mandatory consideration for permanent promotion as a result of either the additional credit for active commissioned service authorized under Section 207 (a) or for the three years of constructive service authorized under 207 (b) for the specialists, will be considered by a Selection Board convened for that purpose. If he is recommended for promotion he will be placed on the proper promotion list immediately junior to the officer on that list having the same or next longer service and he will be given a date of rank accordingly. If he is not recommended for promotion he will be considered a deferred officer. However, he will not have his years of service reduced while

in that status and he will be considered by the next regularly scheduled Selection Board for his grade. Should he be recommended for promotion by the second Board he will be promoted but his years of promotion-list service will be reduced so that he is immediately junior to the junior officer promoted by the first of the two selection boards and who has the same or next longer period of promotion-list service. A deferred officer who is not recommended by a second Selection Board will be mandatorily eliminated or retired as provided for under the Officer Personnel Act.

**Section 208. (a) Two years of constructive service for promotion-list and mandatory retirement purposes for officers already on Regular list**

This subsection provides that two years of service for promotion-list and mandatory retirement purposes may be granted officers who on the date of enactment of this legislation are on the Regular list. The Department of the Air Force desires this authority in order to reduce the World War II hump by increasing the promotion-list service up to two years for those in the grade of Major and Lieutenant Colonel. The Air Force states that about 4,500 officers would be given two years of constructive service and about 6,500 one year.

(*b*) *Promotion consideration as a result of constructive service*

This subsection provides that officers receiving the additional promotion-list service under Section 208 (a) who become eligible for mandatory promotion consideration will be considered by the next regularly convened Selection Board for that grade.

**Section 209. Adjustment of permanent date or rank**

This section provides for the adujstment of date of permanent rank and promotion-list position of officers who receive additional promotion-list services under sections 207 and 208.

**Section 210. Increase in statutory authorization for Regular Officers**

This section amends the Army and Air Force Authorization Act of 1949 by increasing the authorized strength of the commissioned officer active list of the Regular Air Force from 27,500 to 69,425.

**Section 211. Exclusion of appointment authority for certain specialists**

This section provides that this Title does not apply to the appointment of persons appointed with a view to designation as medical officers, dental officers, Air Force nurses, or Air Force medical specialists. The appointment authority for Regular officers in these specialties is contained in other legislation.

**Section 301. Approval of the President of projected Regular officer strength**

This section requires that the Secretary of Defense annually report to the President the projected Regular commissioned officer strength in each of the armed services for each of the ensuing 5 years. The purpose of this proviso, which is included at the request of the President, is to insure that he and his successors are kept informed of the progress of the augmentation programs of the individual services. It might be noted that the President has approved the Regular officer augmentation programs of the Army and Air Force until 1963 at which time each of the services would have completed their interim objectives of

**Section 302. Authorization and limitation for general officer grades**

This bill restates, with an important exception, the provisions of existing law regarding the number of authorized permanent general officers. Existing authority provides that the authorized number of permanent general officers in the Army and Air Force will be three-fourths of one percent of the authorized

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Regular strength, with the finite limit of 201 in the Army and 156 in the Air Force.

As noted above, this bill is related expressly to the Officer Grade Limitation Act of 1954, only with respect to the permanent general officer grades. It should be emphasized, however, that this bill should not be construed as repealing by implication, or otherwise revising, the ceilings established by the Officer Grade Limitation Act for the number of field grade officers who may serve on active duty within the various force levels. The services should therefore be congnizant of the field grade officers authorized by the 1954 legislation where the total numbers of officers on active duty are lower than the present levels. It might also be noted that the legislation as introduced contained a provision which would increase whenever necessary the authorized numbers in the Officer Grade Limitation Act, for the purposes of making Regular promotions. The House Committee on Armed Services deleted this provision.

*Army*

With respect to the number of permanent general officers in the Army, the bill restates the formula of existing law but provides no finite limitation. Due to the increased authorization of Regular Army strength the authorized number of permanent general officers will increase from 201 to 339.

*Air Force*

With regard to the Air Force, due to the increased Regular strength, the authorized number of permanent general officers without some limitation would be 491 instead of 156. The bill limits the authorized number of permanent general officers by providing that the number of permanent general officers may not exceed the ceilings imposed by the Officer Grade Limitation Act on the number of officers on active duty who may serve in general officer grades. The ceiling imposed by the Officer Grade Limitation Act on the number of general officers who may serve on active duty in the Air Force is 449. The number of general officers on active duty for which the Senate Committee on Armed Services has agreed to recommend confirmation is somewhat less than the Grade Limitation Act figure.

The Air Force advises the committee that at no time in the future would the Air Force exceed the number of permanent general officers authorized under the provisions of the Officer Grade Limitation Act for an active duty force of 70,000 officers. The number of general officers authorized by the Officer Grade Limitation Act for a total officer force of 70,000 would be 336.

**Section 303. Annual reports to House and Senate Committees**

This section provides that the names of those persons appointed from civilian life or from a non-active duty Reserve status by reason of possessing special skills, together with the grades to which appointed and the justification therefor, will be submitted annually to the House and Senate Committees on Armed Services beginning not later than July 15, 1958.

**Sec. 304. Laws repealed**

(1) This subsection repeals that section of the Navy and Marine Corps Officer Augmentation Act of 1955 which provides that the authority contained in this Act will expire 2 years from and after the date of enactment of the Act. This Act would otherwise expire on August 9, 1957.

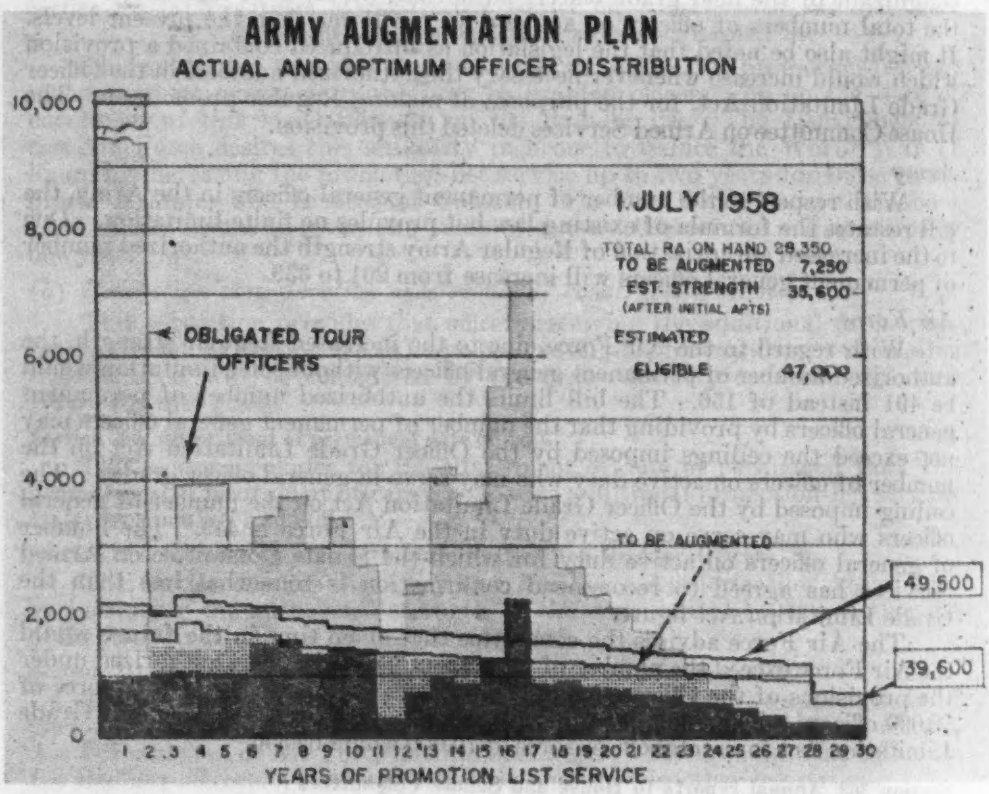
(2) This subsection repeals the provision of the Officer Personnel Act of 1947 which contains the existing authority for the procurement of Regular officers by the Army and the Air Force.

## Charts Indicating Effect of Augmentation on Army and Air Force Officer Structure

### Chart A

The chart below indicates the effect of the Army augmentation program on the total active duty officer corps, showing both the Regular and Reserve officers on duty in the Army on July 1, 1958, in terms of years of promotion-list service.

Chart A




**Note:** 1. The dark and dotted area indicates the Regular officer structure following the integration of 7,000 officers.

2. The lightly shaded area indicates the structure of the Reserve officers then remaining on active duty.

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**Charts B and C**

These charts indicate the effects of the augmentation program on the total Air Force active duty officer structure: Chart B immediately before augmentation, chart C immediately after augmentation.

**Chart B—Before augmentation**

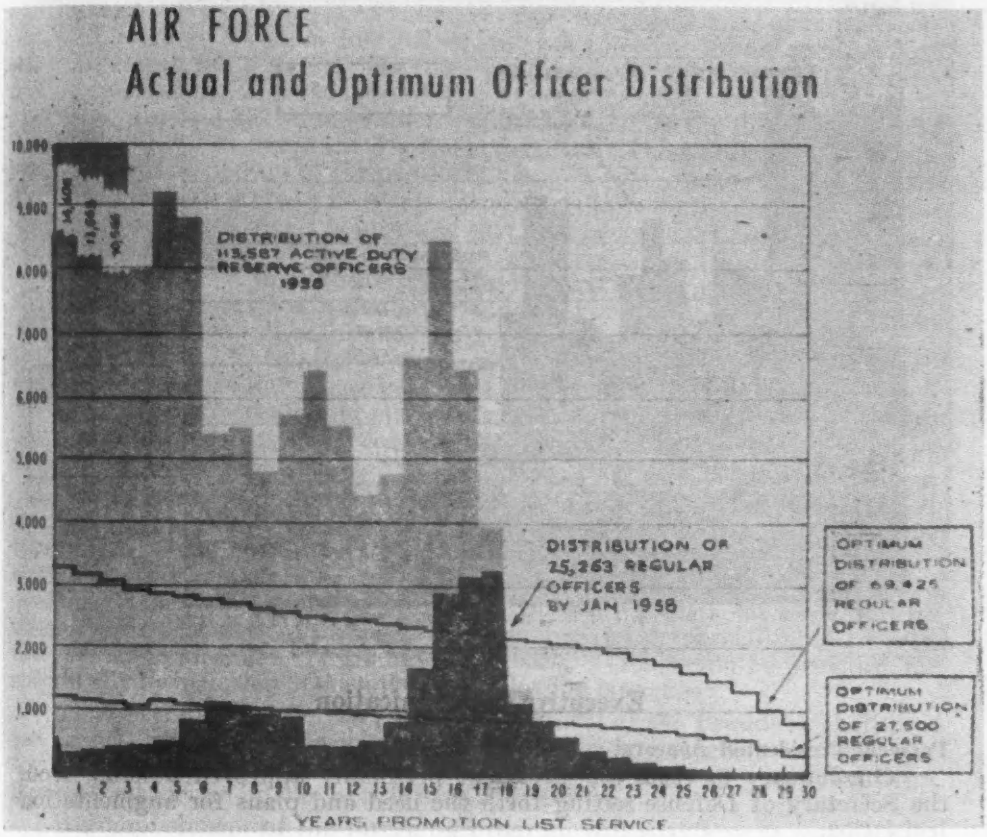
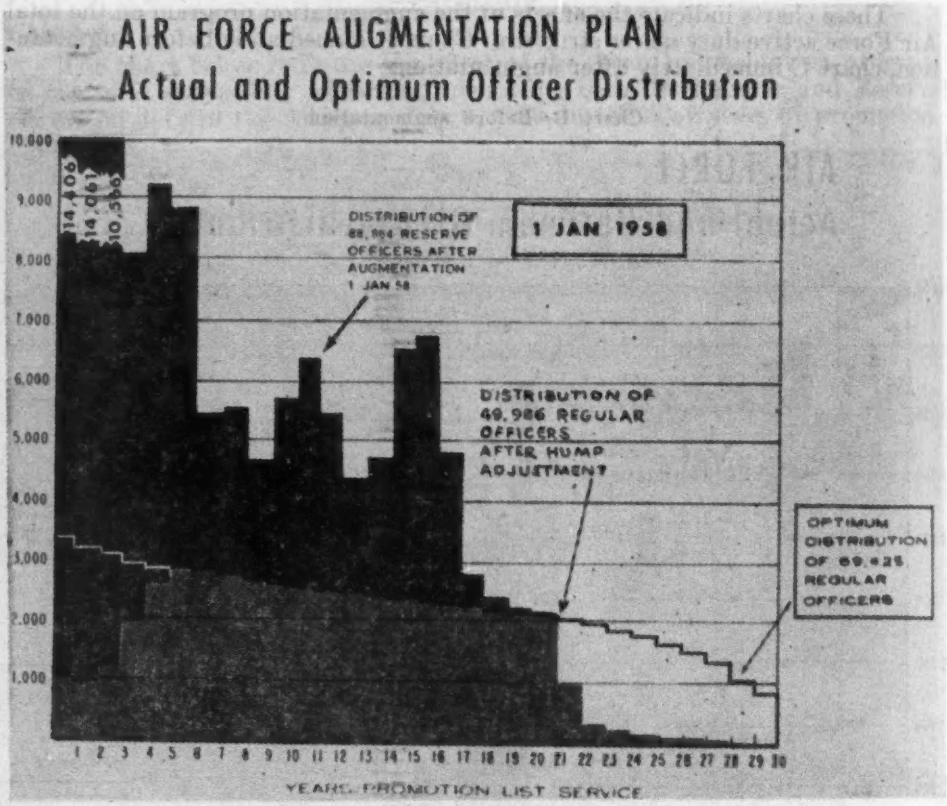


Chart C—After integration of 25,000 officers




## Executive Communication

**Personal Presidential Approval**

On January 3, 1956, the President personally approved a letter from the Secretary of Defense setting forth the need and plans for augmentation legislation.

THE SECRETARY OF DEFENSE,
*Washington, December 23, 1955.*

The PRESIDENT,
*The White House.*

DEAR MR. PRESIDENT: In connection with your desire that the proposed augmentation legislation contain provision for Presidential review of the long-range plans for increasing the Regular officer strength and maintaining it at proper levels, this letter is intended to form the basis for your initial review.

As you know, only about one-fourth of our active-duty officers are regulars today. The remaining three-fourth are reservists serving on a year-to-year basis without the security and recognition of Regular officer status. Faced with such uncertain prospects, entirely too many of them are leaving us at the first opportunity, thus creating marked instability in the officer corps.

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Under existing authority it is not possible to increase the number of Regular officers except through the lower commissioned grades. The proposed legislation will provide the necessary authorization for transferring experienced and well-qualified Reserve officers into the Regular components in higher grades. This will not only improve their individual career prospects, but will at the same time serve to correct much of the present instability within the officer corps.

The instability problem is accentuated in the Army and Air Force, where the ratio of Regular to active-duty officer strength in each of those services is 26 and 17 percent, respectively. The corresponding ratio in the Navy is 43 percent, and in the Marine Corps, 50 percent.

The proposed bill would raise the statutory ceilings for Regular officers in the Army to 49,500 and in the Air Force to 69,425. These ceilings would be the equivalent of 50 percent of the presently planned active-duty officer strength in the Army and Air Force. Existing statutory ceilings for the Navy and Marine Corps are adequate, and it is proposed that they be left unchanged.

Upon enactment of these statutory authorizations, our immediate augmentation objective, to be attained during the next 2-year period, is to increase the Regular officer ratios in the Army and Air Force to 36 percent, and in the Navy to 48 percent. The Marine Corps will remain essentially at its present 50-percent ratio. Thereafter it is planned that the Army and Air Force will continue to procure Regular officers for a number of years at annual rates that will enable them to reach and maintain a 40-percent Regular officer ratio; the Navy and Marine Corps will continue to maintain their Regular officer ratios of approximately 50 percent.

All of these percentages are related to presently planned total officer strengths. They are expressed in finite numbers on the attached summary table. I am sure you will agree, however, that they should be regarded as procurement goals rather than as rigid ceilings or limitations. A reasonable amount of flexibility, which will result in some annual variation in end strengths, will be needed through the years to maintain annual input rates in the various grades on a continuing stable basis. This would be provided for specifically by inclusion in the bill of the following language:

"The Secretary of Defense, with the approval of the President, shall project annually for the ensuing five years the active-duty Regular commissioned list strength in each of the armed services (exclusive of any additional extra numbers authorized by special provision of law)."

Accomplishment of the foregoing program will enable us to make a substantial increase in the present number of Regular officers within the earliest practicable time, and provide a much-needed basis for longer-range planning. It will also, in my opinion, meet with your desire to maintain the Regular officer strength in each of the services in proper balance with existing and foreseeable requirements on the one hand and with future uncertainties on the other.

Your approval of these augmentation objectives is recommended.

With great respect, I am,

Faithfully yours,

C. E. WILSON.

Approved (on basis of plans attached, summary table, and charts):

DWIGHT D. EISENHOWER.

January 3, 1956.

## Department of Defense Position

This legislation was revised in certain respects in the House of Representatives from the form in which recommended by the Department of Defense. The Department, however, strongly supports the bill as passed by the House and which contains most of the features desired by the executive branch. The departmental letter urging the enactment of the original legislation is set forth below.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
LEGISLATIVE AND PUBLIC AFFAIRS,
*Washington, D. C., January 17, 1956.*

Hon. SAM RAYBURN,
*Speaker of the House of Representatives.*

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to authorize permanent appointments in the Armed Forces of the United States, and for other purposes.

This proposal is a part of the Department of Defense legislative program for 1956, and the Bureau of the Budget has advised that it is in accord with the program of the President. The Office of the Secretary of Defense is the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

### PURPOSE OF THE LEGISLATION

The proposed legislation has the primary purpose of providing increased stability within the officer corps of each service. In order to achieve this objective, the bill would raise the statutory ceilings for Regular officers in the Army and the Air Force and authorize the appointment of additional officers into the permanent establishment of each service.

The total active-duty strength of the Armed Forces is expected to remain firm at the approximate level of 2,850,000 for the foreseeable future. Under existing statutory ceilings, Regular officers comprise only about one-fourth of the total officer requirements. The remaining three-fourths are reservists serving on a year-to-year basis without the security and recognition of Regular officer status. Faced with such uncertain prospects, entirely too many of them are leaving military service at the first opportunity, thus creating marked instability within the active-duty-officer structure.

This situation is particularly evident in the Army and Air Force, where the proportion of Regular officers is 26 and 17 percent respectively. The corresponding ratio in the Navy is 43 percent and in the Marine Corps 50 percent.

The proposed bill would raise the statutory ceilings for Regular officers in the Army from 30,600 to 49,500 and in the Air Force from 27,500 to 69,425. These new ceilings would be the equivalent of about one-half of the presently planned active officer requirements of those services. Existing statutory ceilings for the Navy and Marine Corps are adequate, and it is proposed that they be left unchanged.

Subject to the enactment of this legislation, interim objectives for each service have been established by the Secretary of Defense and approved by the President, providing for a phased buildup of Regular officer strengths as indicated in the following table:

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*Summary table—Regular officer augmentation*

| | End of fiscal year— | | | Total authorization |
|---|---|---|---|---|
| | 1955 | 1958 | 1963 | |
| Army | 26, 280 | 35, 640 | 39, 600 | 49, 500 |
| Percent | 25. 6 | 36 | 40 | 50 |
| Navy | 28, 900 | 32, 280 | 33, 625 | 33, 625 |
| Percent | 43 | 48 | 50 | 50 |
| Marine Corps | 8, 474 | 8, 550 | 8, 550 | 8, 550 |
| Percent | 49. 5 | 50 | 50 | 50 |
| Air Force | 23, 810 | 49, 986 | 55, 540 | 69, 425 |
| Percent | 17 | 36 | 40 | 50 |

It will be noted that the immediate augmentation objective, to be attained within 2 years following enactment of this proposal, is to increase the Regular officer ratios in the Army and the Air Force to 36 percent, and in the Navy to 48 percent. The Marine Corps would remain essentially at its present ratio of 50 percent. Thereafter the Army and the Air Force would continue to procure Regular officers at annual rates that will enable them to reach and maintain a 40 percent Regular officer ratio. It is expected that this latter objective can be attained within 7 years following the enactment of this proposal. During the same period of time the Navy would reach and maintain approximately a 50 percent ratio. The decision as to whether or not to increase Regular officer strengths in the Army and Air Force beyond a 40 percent ratio would be deferred until such time as those services are approaching a 40 percent manning level.

Attention is particularly invited to the fact that the strength ratios and their equivalent finite numbers are procurement goals rather than rigid ceilings or limitations. A reasonable amount of flexibility, which will result in some annual variation in end strengths, will be needed through the years to maintain annual input rates in the various grades on a continuing stable basis. It should also be noted that the foregoing ratios of Regular officer strength to total officer strength relate only to a total military force of the planned level of approximately 2,850,000.

To insure an orderly progression toward these strength objectives consistent with existing and foreseeable requirements on the one hand and future uncertainties on the other, this proposal provides for the Secretary of Defense, with the approval of the President, to project annually for the ensuing 5 years the active-duty Regular commissioned list strength in each of the armed services.

Under existing appointment authority it is not possible to increase the number of Regular officers except through the lower commissioned grades. While such authority is being utilized by all of the services to meet requirements for younger officers, additional appointment authority is needed by the Army and Air Force to fill requirements in the higher grades and to maintain a properly balanced Regular officer structure in all of the services. The importance of maintaining a properly balanced officer structure lies principally in the fact that it permits orderly procurement, advancement, and retirement.

There is presently available to the Armed Forces a sizable resource of experienced and well-qualified Reserve officers on active duty or serving in Reserve units. Indications are that many of these aspire to Regular officer

status. Enactment of this legislation would provide the necessary authority to obtain the additional numbers of Regular officers needed for a properly balanced officer structure, and one that would enhance career attractiveness, personnel stability, and combat effectiveness.

In addition to increasing the statutory Regular officer ceilings for the Army and Air Force, this proposal would authorize the President, by and with the advice and consent of the Senate, to appoint qualified persons to permanent commissioned grades in the Regular Army, Regular Navy, Regular Air Force, and Regular Marine Corps. Reserve officers of all grades, and selected qualified civilians would be eligible for appointment in appropriate permanent grades.

Appointments authorized under this legislation would be made pursuant to regulations established by the respective departmental Secretaries and approved by the Secretary of Defense and the President. These regulations will prescribe the physical, mental, and moral standards for appointment; the qualifications for the grade in which individuals will be appointed, and provisions for the determination of the lineal position and precedence of appointees.

The Department of Defense is prepared to present to the appropriate congressional committees departmental plans which will show in detail how the proposed legislation will be administered if enacted.

The cost of implementing this bill upon enactment will be absorbed in the budgets of the respective military departments.

Sincerely yours,

(Signed) RICHARD A. BUDDEKE,
*Director, Legislative Programs.*

## Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is herewith printed in parallel columns the text of provisions of existing law which would be repealed or amended by the various provisions of the bill:

| EXISTING LAW | THE BILL |
| --- | --- |
| Section 102 (b) of the Army and Air Force Authorization Act of 1949 (64 Stat. 322):<br>"(b) Of the active-duty personnel strength authorized in subsection (a) of this section, not to exceed thirty thousand six hundred may be active-list commissioned officers of the Regular Army (exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, and any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers) and nine thousand may be active-list war- | SEC. 109. Subsection 102 (b), Army and Air Force Authorization Act of 1949 (10 U. S. C. 20j (b)), is amended by striking out the words "thirty thousand, six hundred" wherever they appear therein and inserting the figure "49,500". |

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rant officers of the Regular Army. Section 501 of the Officer Personnel Act of 1947 (61 Stat. 883) is hereby amended by striking out the words 'fifty-one thousand' and inserting in lieu thereof the words 'thirty thousand six hundred'; and hereafter the active-list commissioned-officer strength authorized in said section shall apply to the Regular Army, exclusive of the United States Air Force."

Section 202 (b) of the Army and Air Force Authorization Act of 1949 (64 Stat. 323):

"(b) Of the active-duty personnel strength authorized in subsection (a) of this section, not to exceed twenty-seven thousand five hundred, exclusive of any numbers authorized by special provision of law providing for officers in designated categories as additional numbers may be active-list commissioned officers of the United States Air Force and four thousand eight hundred may be active-list warrant officers of the United States Air Force."

Section 503 (a) of the Officer Personnel Act of 1947 (61 Stat. 885), as amended by section 307 of the Army Organization Act of 1950:

"SEC. 503. (a) There is authorized on the active list of the Regular Army a strength of general officers of the Regular Army (exclusive of the numbers of general officers authorized for the several corps of the Army Medical Service and the chaplains) equal to three-fourths of 1 per centum of that number which equals the authorized active-list commissioned officer strength of the Regular Army less the authorized active-list commissioned officer strengths of the several corps of the Army Medical Service and

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SEC. 210. Section 202 (b) of the Army and Air Force Authorization Act of 1949 (10 U. S. C. 20s (b)) is amended by striking out the words "twenty-seven thousand five hundred" and inserting the figure "69,425" in lieu thereof.

SEC. 302. Section 503 (a) of the Officer Personnel Act of 1947 (61 Stat. 885; 10 U. S. C., 506a (a)) is amended to read as follows:

"(a) (1) The authorized strength of the Regular Army in general officers on the active list, exclusive of the number authorized for the Army Medical Service and the chaplains, is seventy-five ten-thousandths of the authorized strength of the Regular Army in commissioned officers on the active list, exclusive of the number of commissioned officers on the active list authorized for the Army Medical Service and the chaplains. Of this authorized strength, not more than one-half may be in a regular grade above brigadier

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the chaplains, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Medical Corps equal to one-half of 1 per centum of the authorized active-list commissioned-officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Dental Corps equal to one-half of 1 per centum of the authorized active-list commissioned-officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Veterinary Corps equal to one-half of 1 per centum of the authorized active-list commissioned-officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army as chaplains equal to one-half of 1 per centum of the authorized active-list commissioned-officer strength of the chaplains of the Regular Army, of which not more than 50 per centum may be in permanent grade above that of brigadier general: *Provided*, That there shall be no additional appointments in any permanet [sic] grade above that of major general: *Provided further*, That the percentages above specified shall not result in more than three hundred and fifty-seven officers on the active list of the Regular Army in permanent grade above that of

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general. The authorized strength of each of the following branches—

(1) the Medical Corps;

(2) the Dental Corps;

(3) the Veterinary Corps; and

(4) the Chaplains;

in general officers on the active list of the Regular Army is five one-thoudandths of the authorized strength of the branch concerned in commissioned officers on the active list of the Regular Army. Not more than one-half of the authorized strength in general officers in such a branch may be in a regular grade above brigadier general. When the application of the percentages and ratios specified in this subsection results in a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded. General officers on the active list of the Regular Army who are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are not counted in determining authorized strength under this Act."

(2) The authorized strength of the Regular Air Force in general officers on the active list is seventy-five ten-thousandths of the authorized strength of the Regular Air Force in commissioned officers on the active list. Of this authorized strength, not more than one-half may be in a regular grade above brigadier general. However, the number of officers on the active list of the Regular Air Force in permanent grade above that of colonel on the last day of each fiscal year shall not exceed the number of general officers authorized in title III of Officer Grade Limitation Act of 1954 (68 Stat. 69; U. S. C. 1843 and the following) for the total number of com-

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colonel, of which there shall be not more than sixteen in the Medical Corps, four in the Dental Corps, one in the Veterinary Corps, two chaplains, and three hundred and thirty-four in the Army, exclusive of Army Medical Service and chaplains; and of such total number there shall be not more than one hundred and seventy-eight on the active list of the Regular Army in permanent grade above that of brigadier general and of such one hundred and seventy-eight there shall be not more than eight in the Medical Corps, none in the Veterinary Corps, two in the Dental Corps, one chaplain, and one hundred and sixty-seven in the Army, exclusive of Army Medical Service and chaplains; and of the foregoing total number of permanent general officers of the Regular Army, unless a National emergency is declared after the date of this Act and before July 1, 1948, there shall, after such date, and until a National emergency is thereafter declared, be not more than forty-four serving in any grade above that of major general as specifically limited in section 504 of this title: *Provided further*, That of the three hundred and thirty-four Regular Army officers authorized in permanent grade above that of colonel in the Army, exclusive of Army Medical Service and chaplains, specified in the preceding proviso, there shall be in the Army less the Air Corps and in the Air Corps, respectively, not more than such numbers as are derived by allotments to each, proportional to the respective strengths authorized for the Army promotion list and the Air Corps promotion list; and of each such allotment there shall be not more than 50 per centum in permanent grade above

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missioned officers of the Air Force on active duty as of that date, as determined by the Secretary of the Air Force. When the application of the percentage above specified results in a fraction, a fraction of one-half or more is counted as one, and a fraction of less than one-half is disregarded. General officers on the active list of the Regular Air Force who are specifically authorized by law to hold any civil office under the United States, or any instrumentality thereof, are not counted in determining authorized strength under this Act.

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that of brigadier general: *And provided further*, That, whenever the application of the percentages specified in this section results in a fraction of a whole number, fractions of one-half and greater shall be counted as a whole number and fractions of less than one-half shall be disregarded: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof."

Section 5 of the Navy and Marine Corps Officer Augmentation Act of 1955 (69 Stat. 607):

"SEC. 5. The authority contained in this Act shall expire two years from and after the date of enactment of this Act."

Section 506 of the Officer Personnel Act of 1947 (61 Stat. 890), as amended by the Act of June 30, 1954 (ch. 433, sections 1 (b), (c), 68 Stat. 357):

"SEC. 506. (a) Within the authorized active-list commissioned-officer strength of the Regular Army, the President, by and with the advice and consent of the Senate, is authorized to appoint additional officers in the Regular Army in commissioned-officer grades as hereinafter in this section prescribed, subject to the conditions and limitations set forth.

"(b) All persons appointed officers in the Regular Army pursuant to this section shall be citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military serv-

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SEC. 304. The following are repealed:

(1) Section 5 of the Act of August 9, 1955 (69 Stat. 607).

(2) Section 506 of the Officer Personnel Act of 1947 (10 U. S. C. 506c).

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ice, and shall have such other qualifications as may be prescribed by the Secretary of the Army.

(c) For the purpose of determining grade, position on promotion list, permanent grade seniority, and eligibility for promotion, each person initially appointed and commissioned an officer in the Regular Army shall, at time of appointment, be credited with an amount of service equivalent to the total period of active Federal service performed after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but in no event shall any person be credited for such purposes with more than five years of such service. In addition to the foregoing and for the purposes hereinabove specified, each person appointed and commissioned an officer of the Medical Corps of the Regular Army shall, at time of appointment, be credited with an amount of service equal to four years; each person appointed and commissioned an officer of the Dental Corps, each person appointed a chaplain of the Regular Army, and each person appointed and commissioned an officer of the Regular Army with a view to assignment in the Judge Advocate General's Department, shall, at time of appointment, be credited with an amount of service equal to three years; each person appointed and commissioned an officer of the Veterinary Corps shall, at time of appointment, be credited with an amount of service equal to three years; and each person appointed and commissioned an officer of the Medical Service Corps who at the time of appointment holds a degree of doctor of

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philosophy or comparable degree recognized by the Surgeon General in a science allied to medicine may, subject to regulations as prescribed by the Secretary of the Army, be credited at the time of appointment with an amount of service equal to three years. Notwithstanding the foregoing or any other provisions of law, no person formerly a cadet at the United States Military Academy may be appointed and commissioned an officer of the Regular Army prior to the date on which his classmates at the United States Military Academy are graduated and appointed officers; and any person who was a cadet at, but did not graduate from, the United States Military Academy, shall not, upon appointment as a commissioned officer of the Regular Army, be credited with a period of service greater than the service credited to any member of his class at the Academy whose service in the Army has been continuous since graduation.

"(d) Upon the basis of service credited as provided in subsection (c) of this section, the commissioned officer grade in which a person shall be appointed shall be determined as follows; Persons who have no service credit and those who are credited with less than three years' service shall be appointed in the grade of second lieutenant; persons who are credited with three or more years' service, but less than seven years' service, shall be appointed in the grade of first lieutenant: persons who are credited with seven or more years' service shall be appointed in the grade of captain. The names of such persons so appointed shall be placed upon the applicable promotion list immediately below those officers of the

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same grade having the same or next greater period of service.

"(e) No person shall be initially appointed in the Regular Army in any commissioned officer grade under the provisions of this section when the length of time from date of birth to date of appointment exceeds: For all persons except those hereinafter specifically mentioned, twenty-seven years; for persons appointed in the Medical Corps, the Dental Corps, and the Veterinary Corps and persons appointed with view to assignment in the Judge Advocate General's Department, thirty-two years; for persons appointed in the Medical Service Corps, thirty years; for persons appointed as chaplains, thirty-four years: *Provided*, That for any person, the number of years from date of birth to date of appointment hereinabove specified shall, respectively, be increased by the number of years, months, and days, of active Federal service performed by such person after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but not by more than five years: *And provided further*, That until June 30, 1953, the Secretary of the Army may, in his discretion, waive such maximum age limitations for any person who served in the armed forces of the United States prior to September 2, 1945.

"(f) Notwithstanding any other provision of law, when any cadet of the United States Military Academy has completed the prescribed course of instruction, he may upon graduation be promoted and appointed a second lieutenant in the Regular Army, and whenever any such appointment would

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result in there being a number of active list commissioned officers in the Regular Army in excess of the authorized active list commissioned officer strength, such strength shall be temporarily increased as necessary to authorize such appointment. The graduates of each class shall be assigned relative seniority among themselves under regulations prescribed by the Secretary of the Army and no cadet upon graduation, promotion, and appointment shall be given any service credit under the provisions of subsection (c) of this section.

"(g) The provisions of this section shall become effective December 31, 1947. Until December 31, 1947, initial appointments of persons as commissioned officers in each of the several arms and services of the Regular Army shall continue to be made in accordance with the provisions of the act of December 28, 1945 (Public Law 281, Seventy-ninth Congress; 59 Stat. 663), as amended, and other provisions of law authorizing appointments of persons as additional officers of the Regular Army, but effective December 31, 1947, no further appointments shall be made under the provisions of the Act of December 28, 1945, as amended (supra). Effective December 31, 1947, each commissioned officer of the Medical Corps who on that date has less than four years' service credit, each commissioned officer of the Dental Corps, each Regular Army chaplin, each commissioned officer of the Judge Advocate General's Department, and each commissioned officer of the Veterinary Corps, who as of that date had less than three year's service credit,

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shall, for promotion, seniority, and promotion-list-position purposes, be credited as of the date with four years' service and three years' service, respectively."

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Calendar No. 2445

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2421

# PROVIDING COMPENSATION TO THE CROW TRIBE OF INDIANS FOR CERTAIN CEDED LANDS EMBRACED WITHIN AND OTHERWISE REQUIRED IN CONNECTION WITH THE HUNTLEY RECLAMATION PROJECT, MONTANA, AND FOR OTHER PURPOSES

JULY 6, 1956.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs, submitted the following

## REPORT

[To accompany S. 1696]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1696) to provide compensation to the Crow Tribe of Indians for certain ceded lands embraced within and otherwise required in connection with the Huntley reclamation project, Montana, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

On page 2, line 7, strike out "tribes and their" and insert in lieu thereof "tribe and its".

On page 20, line 2, strike out the period and insert in lieu thereof a colon and the following:

> *Provided further*, That the Secretary may lease by competitive bidding to the highest responsible qualified bidder, for such bonuses as the Secretary may accept and at such rentals and royalties and upon such other terms and conditions as he may prescribe, any deposits of oil, gas, or other minerals in such lands which under the mining and mineral leasing laws of the United States are not otherwise required or authorized to be leased by competitive bidding and which the Secretary finds, having regard to the provisions of section 4 of this Act, can be so leased compatibly with the public interest.

On page 20, line 25, strike out "leases, bonuses, royalties, or other proceeds" and insert in lieu thereof "bonuses, rentals, royalties, or other proceeds derived under mining leases issued pursuant to this Act or otherwise".

## EXPLANATION OF THE BILL

The purpose of S. 1696, as amended, is to provide $60,000 compensation to the Crow Tribe of Indians for certain lands ceded by the tribe to the United States which are embraced within and otherwise required in connection with the Huntley reclamation project, Montana.

By the act of April 27, 1904 (33 Stat. 352), the Crow Tribe ceded certain lands to the United States. Subsequently, a portion of these lands was withdrawn for the construction of the Huntley reclamation project. As the project lands were sold, payments were made to the tribe. There remains some 4,900 acres of this ceded land within the project which are undisposed of, and for which the tribe has not been compensated.

On June 17, 1952, the Crow Tribal Council adopted a resolution which provided that, in consideration of the payment of the sum of $60,000, the tribe would forever waive, any and all claims to the undisposed of land within the exterior boundaries of the Huntley reclamation project, provided that 90 percent of the gross proceeds received by the United States from leases, bonuses, and royalties on account of oil and gas and minerals from any such land after the date of legislation extinguishing the claims of the Crow Tribe shall thenceforth be paid to the tribe as such proceeds are received.

The 4,900 acres of land in question cannot be disposed of under the laws now applicable to them. They do not contain sufficient irrigable acreage to be opened to entry as farm units as provided by the reclamation laws. They may not be reclassified as residual lands and sold under the terms of the original cession legislation without excluding them from the reclamation project and its benefits. They are not subject to sale under the provisions of the act of March 31, 1950 (64 Stat. 39), authorizing the disposal of tracts of "public" lands in the usual sense. If the bill is enacted, and the Indian claims thereby extinguished, it is proposed to offer the lands for sale to project settlers in accordance with the provisions of the act of March 31, 1950, supra. The sale of these lands has been requested on numerous occasions by the project settlers. The lands would be sold at not less than the appraised valuation and, therefore, a portion of the cost of extinguishing the Indian claims would be returned to the United States.

The Bureau of Reclamation has collected $46,899.68 during the period 1904 through 1953 from grazing and agricultural leases on the lands in question. These receipts were deposited into the reclamation fund and $45,016.77 of this amount have been credited to the repayment obligation of the Huntley Irrigation District. The Crow Tribe contends that it is entitled to these revenues. Collections for 1954 and 1955 are being carried in a suspense account pending a determination of the validity of the tribe's claim. By its resolution of June 17, 1952, however, the tribe agreed to waive all claims to such revenues upon payment to it of $60,000, plus a share in future mineral revenues from the land. The land is not now known or believed to have mineral values.

The bill provides that the United States will acquire the full beneficial ownership of the lands, including any mineral deposits that might subsequently be found in them; would be free to administer and dispose of the lands or mineral interests therein in any manner or for any consideration deemed appropriate by the Congress; and would

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owe no obligation to the Indians with respect to the administration or disposition of the lands other than the obligation of accounting to the tribe for 90 percent of any gross receipts actually derived by the United States from the disposition of interests in the lands under the mining and mineral leasing laws applicable to them. The applicable mining and mineral leasing laws would be the mining and mineral leasing laws that govern the location of mining claims and the granting of mineral leases on the public domain.

It is contemplated that the lands covered by the bill would, upon extinguishment of the Indian claims, be sold to project settlers upon the terms prescribed by the act of March 31, 1950. Patents for lands so sold would convey title to any mineral deposits that might be found in the lands unless the lands were withdrawn, classified, or reported as valuable for minerals prior to the issuance of the patents. The 90 percent clause of the bill would not apply to the receipts derived by the United States from these sales.

With a view to according the Indians an adequate return from any mineral potentialities that may come to light before the sale or other disposition of the lands, the bill includes authority to grant leases for any minerals in the lands on a competitive bidding basis, without regard to the provisions of the mining and mineral leasing laws, in any situation where it appears that the leasing of minerals on this basis would be compatible with the public interest.

The favorable reports of the Department of the Interior and the Bureau of the Budget are set forth below:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D. C., March 29, 1956.*

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,*
*United States Senate, Washington, D. C.*

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 1696, a bill to provide compensation to the Crow Tribe of Indians for certain ceded lands embraced within and otherwise required in connection with the Huntley reclamation project, Montana, and for other purposes.

We recommend that the bill be enacted with the amendments suggested below.

The Crow Tribe of Indians, pursuant to the act of April 27, 1904 (33 Stat. 352), which modified and adopted an agreement between the tribe and the United States, ceded certain lands formerly included in the Crow Indian Reservation in Montana. A portion of these lands was withdrawn for the construction and development of the Huntley reclamation project pursuant to the act of June 17, 1902 (32 Stat. 388), and as the lands are sold the Crow Tribe receives the proceeds thereof in accordance with the provisions of the act of April 27, 1904.

There are presently included within the exterior boundaries of the Huntley reclamation project approximately 4,900 acres of undisposed of land for which the Crow Tribe has not received any compensation. This land consists of 147 acres of irrigable land, 1,735 acres that are physically suitable for permanent vegetation with use for pasture or woodland, and 3,018 acres which are considered nonirrigable.

On June 17, 1952, the Crow Tribal Council adopted a resolution which provided that, in consideration of the payment of the sum of $60,000, the tribe would forever waive any and all claims to the undisposed of land within the exterior boundaries of the Huntley reclamation project, provided that 90 percent of the gross proceeds received by the United States from leases, bonuses, and royalties on account of oil and gas and minerals from any such land after the date of legislation extinguishing the claims of the Crow Tribe shall thenceforth be paid to the tribe as such proceeds are received.

The vacant ceded Crow Indian lands on the Huntley project that remain undisposed of cannot be properly disposed of under the laws now applicable to them. They do not contain sufficient irrigable acreage to be opened to entry as farm units as provided by the reclamation laws. They may not be reclassified as residual lands and sold under the terms of the original cession legislation, as amended by the act of March 3, 1909 (35 Stat. 781, 797), without excluding them from the reclamation project and its benefits. They are not subject to sale under the provisions of the act of March 31, 1950 (64 Stat. 39), authorizing the diposal of tracts of public lands withdrawn for reclamation purposes that are too small to be opened to entry as farm units, since ceded Indian lands are not public lands in the usual sense. If the bill is enacted, and the Indian claims thereby extinguished, it is proposed to offer the lands for sale to project settlers in accordance with the provisions of the act of March 31, 1950, supra. The sale of these lands has been requested on numerous occasions by the project settlers. The lands would be sold at not less than the appraised valuation and, therefore, a portion of the cost of extinguishing the Indian claims would be returned to the United States.

From 1904 through 1953 the Bureau of Reclamation collected the sum of $46,899.68 for the use of the lands in question from grazing and agricultural leases. These lease receipts were deposited into the reclamation fund and $45,016.77 of this amount have heretofore been credited to the repayment obligation of the Huntley Irrigation District in accordance with section 14 of its repayment contract dated January 2, 1927. The Indian tribe has contended that they are entitled to these revenues. Collections for 1954 and 1955 are being carried in a suspense account pending a determination whether the tribe's claim is valid. By its resolution of June 17, 1952, however, the tribe agreed to waive all claims to such revenues upon payment to it of $60,000 as provided in the bill. With respect to these lease revenues, the Huntley Irrigation District has pointed out that it does not feel that it is within its ability to pay out of its funds the amounts that have been collected and credited to the project. Section 3 of the bill therefore provides that the lease revenues heretofore and hereafter collected shall be credited to the Huntley Irrigation District in accordance with section 14 of the contract between the district and the United States.

If the 4,900 acres are valued at $4 per acre, which is the minimum compensation for the ceded lands specified in the act of April 27, 1904, the practical effect of the bill would be to extinguish the Indian claims to land worth $19,600 and to accumulated lease revenues in excess of $46,899.68 in return for a payment to the Indians of $60,000, plus a share in future mineral revenues from the land. The latter are purely speculative at the present time, since the land is not now

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known or believed to have mineral values. The tribal resolution mentioned above indicates that this settlement is satisfactory to the Indians, and we believe that it is equitable.

It should be noted that under the bill the United States would acquire the full beneficial ownership of the lands, including any mineral deposits that might subsequently be found in them; would be free to administer and dispose of the lands or mineral interests therein in any manner or for any consideration deemed appropriate by the Congress; and would owe no obligation to the Indians with respect to the administration or disposition of the lands other than the obligation of accounting to the tribe for 90 percent of any gross receipts actually derived by the United States from the disposition of interests in the lands under the mining and mineral leasing laws applicable to them. the mining and mineral leasing laws applicable to the lands would, except as the Congress might otherwise provide in the future, be the mining and mineral leasing laws that now govern the location of mining claims and the granting of mineral leases on the public domain, together with any future amendments of those laws; and would not include laws that relate only to the disposition of mineral interests in Indian lands.

As has already been mentioned, it is contemplated that the lands covered by the bill would, upon extinguishment of the Indian claims, be sold to project settlers upon the terms prescribed by the act of March 31, 1950. Patents for lands so sold would convey title to any mineral deposits that might be found in the lands unless the lands were withdrawn, classified or reported as valuable for minerals prior to the issuance of the patents. The 90 percent clause of the bill would not apply to the receipts derived by the United States from these sales, and, of course, it could not apply to any receipts derived by the purchasers from the subsequent development of mineral deposits not reserved to the United States by the patents.

Any mineral deposits remaining in the ownership of the United States that were of the types subject to the mining laws would be open to location and patenting under those laws; and any such deposits that were of the types subject to the mineral leasing laws would be open to lease or other appropriate disposition under those laws. In the eventuality that mining law minerals were discovered, however, the benefit of the 90 percent clause to the Indians would be very small, because no charges are made for mining locations. In the eventuality that leasable minerals were discovered, the benefit of the 90 percent clause to the Indians would also be limited, although less drastically, because unproven deposits of oil and gas are not subject to competitive bidding. With a view to according the Indians an adequate return from any mineral potentialities that may come to light before the sale or other disposition of the lands, we recommend that the bill include authority to grant leases for any minerals in the lands on a competitive bidding basis, without regard to the provisions of the mining and mineral leasing laws, in any situation where it appears that the leasing of minerals on this basis would be compatible with the public interest. This recommendation could be put into effect by the following amendments to the bill:

(1) At page 20, line 2, strike out the period and insert in lieu thereof a colon and the following:

"*Provided further*, That the Secretary may lease by competitive bidding to the highest responsible qualified bidder, for such bonuses as the Secretary may accept and at such rentals and royalties and upon such other terms and conditions as he may prescribe, any deposits of oil, gas, or other minerals in such lands which under the mining and mineral leasing laws of the United States are not otherwise required or authorized to be leased by competitive bidding and which the Secretary finds, having regard to the provisions of section 4 of this Act, can be so leased compatibly with the public interest."

(2) At page 20, line 25, strike out "leases, bonuses, royalties, or other proceeds" and insert in lieu thereof "bonuses, rentals, royalties, or other proceeds derived under mining leases issued pursuant to this Act or otherwise".

In order to correct a clerical oversight the following additional amendment is also suggested: At page 2, line 7, strike out "tribes and their" and insert in lieu thereof "tribe and its".

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

WESLEY A. D'EWART,
*Assistant Secretary of the Interior.*

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EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
*Washington, D. C., March 21, 1956.*

Hon. JAMES E. MURRAY,
*Chairman, Committee on Interior and Insular Affairs,*
*United States Senate, 224 Senate Office Building,*
*Washington, D. C.*

MY DEAR MR. CHAIRMAN: This will refer to your request for the views of this Bureau concerning S. 1696, to provide compensation to the Crow Tribe of Indians for certain ceded lands embraced within and otherwise required in connection with the Huntley reclamation project, Montana, and for other purposes.

The bill affects some 4,900 acres of land heretofore ceded to the United States and subsequently withdrawn for inclusion in the Huntley reclamation project. The tribe was to have been compensated for the lands as disposed of. As project lands were sold payments were made to the tribe. The 4,900 acres represent the residue of lands yet undisposed of for various reasons set forth in a report which the Department of the Interior is making to your committee on the measure.

The legislation would also give to the tribe the equivalent of certain rentals derived from the land since its inclusion in the reclamation withdrawal.

This Bureau would have no objection to the enactment of S. 1696 if amended as recommended by the Department of the Interior in its report to your committee.

Sincerely yours,

PERCY RAPPAPORT,
*Assistant Director.*

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The Crow Tribe and the Huntley Irrigation District have expressed their approval of S. 1696 as amended in the following communications directed to the sponsor of the bill, Senator Murray:

CROW AGENCY, MONT., *June 29, 1956.*

Hon. JAMES E. MURRAY,
*United States Senate Office Building,*
*Washington, D. C.*

Crow Tribe urges immediate congressional action on S. 1696, as amended. Desire to have passage of bill by this session of Congress.

EDWARD P. WHITEMAN,
*Tribal Chairman.*

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WORDEN MONT., *April 24, 1956.*

Hon. JAMES E. MURRAY,
*United States Senate, Washington, D. C.*

Huntley Project Irrigation District has no objection to proposed amendments to bill S. 1696.

JOHN SCHREUDER,
*President, Board of Commissioners,*
*Huntley Project Irrigation District, Ballantine, Mont.*

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Calendar No. 2446

84TH CONGRESS, 2d Session } SENATE { REPORT No. 2422

# BRANDEIS COMMEMORATIVE MEDALS

JULY 6, 1956.—Ordered to be printed

Mr. FULBRIGHT, from the Committee on Banking and Currency, submitted the following

## REPORT

[To accompany S. 3784]

The Committee on Banking and Currency, to whom was referred the bill (S. 3784) to provide for the striking of medals in commemoration of the 100th anniversary of the birth of the late Justice Louis Dembitz Brandeis, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

### PURPOSE OF THE BILL

The bill would authorize and direct the Secretary of the Treasury to strike and furnish to Brandeis University, Waltham, Mass., 3,000 medals to commemorate the 100th anniversary of the birth of the late Supreme Court Justice Louis Dembitz Brandeis. The medals would bear suitable emblems, devices, and inscriptions as determined by the Secretary and would be considered national medals within the meaning of section 3551 of the Revised Statutes. The Treasury Department would be reimbursed for the full cost of the medals. Enactment of the bill was recommended by the Treasury Department, and the committee was advised that the Bureau of the Budget had no objection.

### GENERAL STATEMENT

The year 1956 marks the 100th anniversary of the birth of the late United States Supreme Court Justice Louis D. Brandeis. To celebrate the centennial of Justice Brandeis' birth, his many contributions to our social philosophy, legal thought and political and economic growth, a nationwide program of activities has been planned. Among the projects contemplated are a series of symposia on Justice Brandeis to be held in conjunction with Harvard University, the dedication of his statue on the university campus, the publication of collected writings of the Justice, the codification of the law structure of Israel, and

a series of creative arts' awards in his name. The committee believes it is fitting and proper for the Congress to participate in the honoring of this distinguished jurist by authorizing the striking of commemorative medals.

Louis D. Brandeis was born in Louisville, Ky., on November 13, 1856, and attended the local public schools, attaining very high grades. He traveled to Europe with his family at the age of 16 and remained to study at the Annen Realschule in Dresden, Germany, from 1873 to 1875.

Shortly before his 19th birthday and with no previous college training, Brandeis entered Harvard Law School in 1875. His grasp of legal concepts, his prodigious memory, and his speaking ability soon made him an outstanding member of his class. He graduated from Harvard Law School in 1877 and was valedictorian of his class. Since he was not yet 21 years old at the time, it was necessary for the board of trustees to pass a special waiver to permit him to graduate.

He spent another year at Harvard in graduate studies and then joined a St. Louis law firm for a short time. He returned to Boston in the summer of 1897 to practice law, and from 1879 to 1897 was a partner in the firm of Warren & Brandeis. He was later a partner in the firm of Brandeis, Dunbar & Nutter until his appointment as a Justice of the United States Supreme Court by President Woodrow Wilson in 1916.

During his career as a lawyer, Brandeis belonged to several reform movements, taking it upon himself to become the "people's attorney." His emphasis in gathering all of the relevant facts aside from the applicable principles of law is still referred to in the legal profession as a "Brandeis brief."

Among the many cases in which he distinguished himself as a lawyer and speaker is his defense of Louis R. Glavis, dismissed chief of the General Land Office field agents, in the Department of Interior before a congressional committee investigating the Ballinger-Pinchot conservation fund in 1910. In 1914 he participated in the proceedings involving the constitutionality of the women's 10-hour laws in Oregon and Illinois, the California 8-hour law, and the Oregon minimum-wage law. He was also a leader in the establishment of the sliding scale gas-rates system for municipal gas service in the Boston area and the establishment of the Massachusetts savings bank insurance system.

Brandeis' flexibility and his ability to see both sides of a legal question depending upon prevailing conditions is perhaps best shown by his participation in the advanced freight-rate investigation. In 1911 he was counsel for shippers in the investigation before the Interstate Commerce Commission. On the other hand, in 1913–14 he was special counsel for the Interstate Commerce Commission in the 5 percent advanced freight rate investigation.

Brandeis served as a Justice of the United States Supreme Court 23 years before retiring on February 13, 1939. The principles for which he fought in his earlier years were enshrined in the course of many decisions which he wrote as a member of the Court.

Louis D. Brandeis' illustrious career was ended by his death in Washington, D. C., on October 5, 1941, a short time before his 85th birthday. The committee hopes that the commemorative medals authorized by S. 3784 will help preserve the memory of the public service of this distinguished lawyer, social philosopher, humanitarian, author, and jurist.

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Calendar No. 2447

84TH CONGRESS, 2d Session | SENATE | REPORT No. 2423

# CIVIL WAR VETERANS MEDALS

JULY 6, 1956.—Ordered to be printed

Mr. FULBRIGHT, from the Committee on Banking and Currency, submitted the following

## REPORT

[To accompany H. J. Res. 569]

The Committee on Banking and Currency, to whom was referred the joint resolution (H. J. Res. 569) to provide for a medal to be struck and presented to each surviving veteran of the War Between the States, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

### GENERAL STATEMENT

The bill would authorize and direct the Secretary of the Treasury to stike gold medals in honor of the last surviving veterans of the War Between the States who served in the Union or the Confederate forces. The presentation of the medals would be made by the President or a person designated by him at the home of each veteran or at some other suitable place. The medals would bear appropriate emblems, devices, and inscriptions as determined by the Secretary and would be considered national medals within the meaning of section 3551 of the Revised Statutes.

It is estimated that the dies for the medals would cost $1,500 and that the gold and manufacturing charges on each medal, based upon a weight of 12 troy ounces per medal, would be $500. Thus, the cost of the medals for the 4 known surviving veterans would be $3,500. The Treasury Department has advised the committee that it would have no difficulty in carrying out the provision of the bill if the necessary appropriations are provided.

Each of the four surviving veterans exceeds 100 years of age. One of them, Albert Woolson, of Duluth, Minn., served in the Union forces. The other three; namely, William A. Lundy, of Laurel Hill, Fla.; John Salling, of Slant, Va.; and Walter W. Williams, of Franklin, Tex., are Confederate veterans.

The committee believes that the presentation of these medals will provide an appropriate means for the people of our country to honor the surviving Civil War veterans.

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